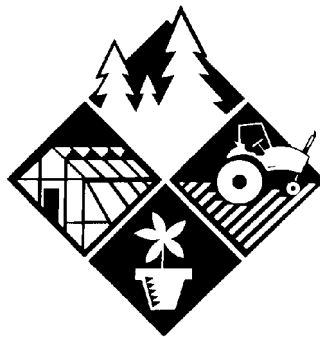


The National Assessment of the Worker Protection Program



Workshop #2

**Sponsored by the
U. S. Environmental Protection Agency and the
National Environmental Education & Training Foundation**

Workshop Summary

**Sacramento, California
December 11-13, 2000**

National Assessment of the Worker Protection Program - Workshop #2

Introduction

On December 11-13, 2000, in Sacramento, California, the National Environmental Education & Training Foundation (NEETF) and the U.S. Environmental Protection Agency (EPA) hosted the second in a series of four evaluation workshops. The focus of these meetings is to assess the implementation and enforcement of the 1992 agricultural Worker Protection Standard (WPS). The initial assessment conference was held in Austin, Texas in June 2000. The Agency is conducting this assessment project to better determine whether the WPS program is adequately meeting its intended goal of addressing the risks to agricultural workers.

WPS History

The revised Worker Protection Standard (WPS) regulation was issued in August 1992 by EPA and became fully effective on January 1, 1995. The WPS was established to reduce the occupational risk of pesticide poisonings and related injuries among agricultural workers and pesticide handlers on farms, forests, nurseries and greenhouses. The rule provides protections to more than 3.5 million people who work with pesticides at over 560,000 workplaces. It has the following requirements:

- Pesticide safety training;
- Notification of pesticide applications;
- Use of personal protective equipment;
- Restricted entry intervals following pesticide applications;
- Decontamination supplies; and
- Emergency medical assistance.

The WPS represented significant enhancement and strengthening of previously enacted occupational protections for agricultural workers and it involved substantial new requirements for employers in order to comply with the new regulation. The WPS also required the EPA's Office of Pesticide Programs (EPA OPP) to undertake one of its most extensive regulatory implementation and outreach efforts in the history of the Agency. EPA has been engaged in WPS implementation for five years during which time EPA's state regulatory partners and other program stakeholders have identified numerous concerns with the implementation and enforcement of the regulation. Additionally, a series of reports and recommendations from the Government Accounting Office (GAO), the Children's Health Protection Advisory Committee (CHPAC), and various farmworker groups have identified other areas of concern with the WPS program.. All of these factors have led to this extensive national assessment of the worker protection program.

Goals of the Assessment

As previously mentioned, EPA is initiating its national assessment of the WPS program to assess the effectiveness of its WPS implementation and enforcement efforts, and address the GAO, CHPAC, and other stakeholder recommendations on EPA's regulatory efforts to protect the health of agricultural workers and children working in agricultural areas. The goals of the national assessment are to:

- Generate a consortium of various interests committed to the WPS program and the assessment;
- Identify key stakeholder concerns/issues with the WPS program that need to be addressed;
- Assess the current program status and determine program needs and priorities;
- Develop a comprehensive set of recommendations for WPS program including enhancements and possible regulatory changes that EPA may consider;
- Develop mechanisms to foster partnerships that can effect positive change in the program and make the program work effectively; and
- Develop the infrastructure for a continuing forum that will address future WPS issues.

The national assessment will include the following key areas of EPA's worker protection program:

- Effectiveness of EPA's WPS implementation and enforcement efforts;
- EPA's oversight of state programs and the effectiveness and consistency of state implementation and enforcement of the WPS;
- Outreach and communications with the affected regulatory community and stakeholders;
- Scope, quality, and delivery of worker and handler training programs;
- Special needs/concerns of children and pregnant women as agricultural workers; and
- Strategies for educating health care workers and the medical community.

The Sacramento Workshop - December 11-13, 2000

The Sacramento meeting was the second in a series of four national stakeholder conferences being held across the country. The initial workshop was held in Austin, Texas in June 2000. The third meeting will be held in Orlando, Florida during Summer 2001. The last workshop will be held in Washington, DC in late 2001 or early 2002.

In planning these meetings, EPA has made a concentrated effort to invite various program stakeholders to participate in this assessment process. These are public meetings are all welcome to attend and share their experiences, opinions, and perspectives. EPA believes it is essential to involve farmworker representatives, agricultural interests, and other program stakeholders in

order to have a comprehensive, balanced, and worthwhile national program assessment. The Austin meeting began the important process of building a coalition of interested stakeholders that are willing to participate in the assessment effort and remain active in working with EPA to resolve program issues and effect change in the operation of the WPS program. The Sacramento conference provided an opportunity for participants to again form work groups and further discuss areas of concern with regard to program implementation and enforcement.

The objectives of the Sacramento meeting were to:

- Share the refined Agency objectives for this national assessment process;
- Incorporate discussion on children's issues as they relate to agriculture;
- Encourage continued stakeholder participation;
- Identify stakeholders not (as) actively involved in the current assessment process and find ways to encourage their future involvement in this effort;
- Ask stakeholders to identify key focal areas/priorities they believe are important in this assessment process;
- Continue to allow for general comment on the structure, design, and operation of the national assessment in an effort to develop a more successful assessment process;
- Continue to provide program stakeholders with an opportunity to work in groups and discuss possible remedies for those issues;

Monday, December 11, 2000 - First Half-Day Session

The first half-day of the two and a half-day Sacramento meeting consisted of general presentations to provide participants with background information on the WPS program, the context and goals for the assessment process and outcomes from the Austin, Texas meeting. It also provide an opportunity for a panel discussion about children in agriculture as well as a general discussion of the goals and desired outcomes of the Sacramento workshop. This introductory session also gave the EPA's Office of Compliance Assurance and Enforcement (OECA) an opportunity to explain and answer questions about their Program Element Review, an internal EPA review of the WPS program and EPA Regional and state implementation and enforcement efforts.

Tuesday, December 12 - Day Two

This second day of the Sacramento meeting gave meeting attendees an opportunity to review in-depth and continue work group discussions of the issues introduced at the initial workshop in Austin. The major issues identified in Austin were:

- Training Issues
- Enforcement Issues
- Complaint and Retaliation Issues

- Communication Issues
- Children's Health Issues
- Other Issues (this category included a wide variety of concerns that were not appropriate to put in any of the categories listed above. For more information please consult the comprehensive Austin Meeting Report at www.epa.gov/pesticides/safety or call the Certification & Worker Protection Branch at 703-305-7666 for a printed copy of the document).

In this national assessment effort, EPA and NEETF are committed to working with and including a broad range of groups in the agricultural community. With that in mind, it is important to note that conference organizers tried diligently to maintain a representative balance in each work group of farmworker advocates, grower interests, county extension staff, state officials, EPA program experts, and other interested parties.

Wednesday, December 13, 2000 - Day Three

On the third day of the conference, attendees continued to participate in one of the four professionally facilitated work groups listed below. Each of these work groups was asked to focus on their topics and to continue to identify their particular concerns as well as initiate discussions about methods to resolving these issues. The work groups were:

- Training Work Group
- Enforcement Work Group "A"
- Enforcement Work Group "B"
- Communication and Information Exchange

At the end of the third day, conference participants came together to report their progress. Each of the four work groups was given an opportunity to discuss the issues they identified as well as possible solutions for those issues. As you read through the work group session notes please keep in mind that this Sacramento workshop was not about consensus but rather about meeting and discussing different viewpoints, experiences, and opinions.

Work Group Reports

Meeting organizers received many comments from stakeholders during work group sessions. While some of the issues discussed were familiar to some participants, the Sacramento meeting gave all attendees an opportunity to identify their particular areas of concern and begin discussions on how to best resolve specific program implementation and enforcement challenges.

The final part of the Sacramento workshop gave work groups an opportunity to summarize their issues and concerns. The members of each work groups agreed to a series of clearly defined operating ground rules before discussions began. The ground rules for each session allowed

meeting participants to speak freely while focusing their comment on issues being discussed.

NOTE: The brief summaries of issues discussed in the work groups does not include all aspects of the discussion. Please consult the Sacramento Workshop Report for full details of discussions.

Training Work Group Issues

Primary issues which will serve as focal points in the assessment process:

- *Funding and Resource Distribution**
- *Program/Materials Evaluation**
- *Training Content**
- *Training Quality and Consistency**
- *Training Verification (added issue)**
- *Train-the-Trainer Networks**
- *Re-training**
- *Training Record-Keeping Requirements**
- *Training to Protect Families (added issue)**
- *Training Materials**
- *Handler Training**
- *Alternative Training Systems**

Funding and Resource Distribution

1. Inadequate funding from EPA to sustain quality program. Leads to inconsistency between states.
2. EPA should reexamine its own agency's priorities.

Program/Materials Evaluation

1. Determine baseline criteria and utilize to evaluate current methodologies and materials.

Training Content

1. Crop/product specific information.
2. Include information / education on safety risks to family.
3. Sensitive to different populations.
4. Develop train-the-trainer materials for use by groups.

Training Quality and Consistency

1. Funding is an issue.
2. Training needs to be interactive.
3. Develop a national train-the-trainer program.

Train-the-Trainer Networks

1. Utilize current programs to establish national infrastructure.
2. Develop core curricula/program.
3. Train-the-trainer training.

Re-training Interval

1. Five years is too long an interval to be effective.
2. Two to three years is a more reasonable training interval for workers.
3. Handlers should be trained annually.
4. [EPA should] Provide support for retraining trainers and updating training materials.

Training Record-Keeping Requirements

1. Growers/employers need to keep records on training.

Training to Protect Families (added issue)

1. Encourage training partnerships.

Training Materials

1. Interactive - materials should encourage more interactive training.
2. Workers should be given more information on specific chemicals.

Handler Training

1. Need to more carefully consider whether or not to move handler training from WPS to the Certification & Training Program.
2. Maintain employer responsibility.

Alternative Training Systems

1. Encourage training partnerships.
2. Develop communication channels.

Enforcement “A” Work Group Issues

Primary issues which will serve as focal points in the assessment process include:

- * Funding and Resource Distribution**
 - * EPA Oversight of State Programs**
 - * Quality / Consistency of State Inspections**
 - * Defining WPS Inspection Criteria**
 - * National Reporting**
 - * WPS Enforcement and Compliance Actions (Penalty Policy)**
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Funding and Resource Distribution;

1. Not enough funding to staff, train, travel, etc....
2. Funding and resource distribution is an issue at all levels of government.
 - i. Creative penalties (e.g. SEPs, reinvest in programs)
 - ii. Fees to pay for program
 - iii. Use program evaluations to highlight program shortcomings and resource shortfalls.

EPA Oversight of State Programs

1. Lack of adequate EPA guidance to self on conducting program oversight.
2. Lack of guidance to states on program implementation.
 - i. “Residence” programs may be helpful.
 - ii. Cross-border experiences.

Quality / Consistency of State Inspections

1. Lack of basic inspection skills
2. Different approaches (enforcement/compliance)
 - i. Changing the WPS is a possible approach.
 - ii. Training WPS personnel in case development.

Defining WPS Inspection Criteria

1. Criteria is not consistently applied across states.
2. Confidentiality is an issue.

National Reporting

1. Enforcement/compliance activity reporting.
2. Incident (injury, poisoning) reporting.

WPS Enforcement and Compliance Actions (Penalty Policy)

1. Goal is compliance.
2. Inconsistency in enforcement response among states.

Enforcement “B” Work Group Issues**The “B” Work Group issues included:**

- * Incident Reporting and Tracking
 - * Improving the Complaint Process
 - * Educating Workers on the WPS and Complaint Process
 - * Resolving Retaliation Problems
 - * Community/Advocacy Group Involvement
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Incident Reporting and Tracking

1. Includes two subsets:
 - i. Pesticide exposure incidents resulting in illness and injury
 - ii. Pesticide complaints / investigations
2. Approaches to Addressing Incident Reporting and Tracking
 - i. Examine and take ideas from existing state models for reporting and tracking pesticide related illnesses and injuries
 - ii. Examine and take ideas from other agencies which have developed reporting and tracking requirements for programs unrelated to pesticides

Improving the Complaint Process

1. Pesticide Inspector Training

Improve inspector training to address complaints better. Improve cultural understanding and challenges relating to taking complaints and conducting interviews with workers who may be unfamiliar or uncomfortable with the process.
2. Presumption of Guilt/Burden of Proof

There was lengthy debate as to whether there was a need to place the burden of proof on employers.

Educating Workers on the WPS and Complaint Process - Approaches

1. Establish a national 800# to take complaints.
2. Modify worker training to include information on how to file complaints.

There was discussion on this issue as to whether this should be training that should be delivered through the traditional WPS safety training programs or whether the burden for disseminating this information should fall to advocacy and public service groups through radio spots, etc. Concerns were expressed that growers are already overburdened with the training process as it is and also whether there would be a conflict of interest to have them doing the training on how to file complaints.

Resolving Retaliation Problems - Approaches

1. Examine regulations governing this issue currently in place with other agencies (e.g. OSHA) and adapt/adopt best practices as appropriate.

2. Change the statute to assure stiffer financial penalties for retaliating against persons who file WPS complaints.

Communication & Information Exchange Work Group Issues

The Communication & Information Exchange Work Group issues included:

- * General WPS Outreach with Stakeholders**
- * Hazard Communication**
- * Language & Cultural Barriers**
- * Health Care Provider Outreach**

General WPS Outreach with Stakeholders

1. Short-term goal - increase outreach effort for assessment meetings.
2. Long-term goal - develop clear, comprehensive strategy to target affected audience.

Hazard Communication (Hazcom)

1. Short-term/Long-term - oral communication to workers with written verification
2. Log books for workers
3. Pay workers for time in training to increase efficacy.
4. Pilot a range of hazcom methods - crop sheets, oral training.
5. Consider children's needs.

Language & Cultural Barriers

1. Short-term goal - improve cultural awareness and diversity of WPS trainers, inspectors, and compliance officers.
2. Long-term goal - the Office of Pesticide Programs and the Office of Environmental Justice should develop a pilot to reach agricultural workers and their unique workplace issues.

Health Care Provider Outreach

1. Short-term goal - improve HCPs awareness of pesticide illness and availability of pesticide information. Problem: worker lack of immediate and anonymous access to pesticide information.
2. Long-term goal - identify what pesticide injury is AND revisit addition of medical monitoring provision for specific pesticides in all states.

Ongoing Process

The Sacramento meeting represents the middle point for the formal assessment workshops though there remain many opportunities for stakeholders to become involved. The remaining Orlando, Florida and Washington, DC meetings represent opportunities for those who have not yet become involved in the process to actively work with EPA and all other program

stakeholders in assessing the WPS. EPA and NEETF encourage all program stakeholder to remain a part of working toward common sense approaches to addressing concerns and issues arising from the workshop discussions and the GAO and CHPAC reports. The “National Assessment of the Worker Protection Program” was designed to be an ongoing process which includes the four large workshops, working committees to more thoroughly examine issues and program challenges, and a steering work group which will act as a standing body to provide direction to the assessment process and the agricultural worker protection program as a whole.

Next Steps

Creation of WPS Assessment Working Committees and WPS Steering Group

Working Committees - EPA intends to form a number of small working committees that will act as the cornerstone for more thoroughly focusing on and addressing the broad themes in addition to issues identified during the Austin and Sacramento workshops. Working committees will be made up of representatives from the WPS stakeholders who have volunteered to be active participants in the assessment process. All stakeholders are encouraged to participate in this working committee process.

WPS Steering Group - A WPS Steering Group will be formed as part of this assessment process. This workgroup will help manage and provide direction to the assessment process, the different assessment working committees, and the overall WPS program. The steering group will be comprised of representatives from EPA, Departments of Agriculture, Labor, and Health and Human Services, state regulators, state extension service safety educators, farmworker advocacy groups, farmworker service/training associations, agricultural employer associations, farmworker clinicians networks, and other interested stakeholders.

Additional Stakeholder Meetings

The Sacramento meeting was only the second in a series of four large meetings that are being held to seek public comment on the implementation and enforcement of the agricultural worker protection program as part of the national assessment effort. The Agency is planning two additional stakeholder meetings for different regions of the country to help ensure that different regional perspectives are adequately represented during the assessment process. The next stakeholder meeting will be held in Orlando, Florida in July-August 2001. The last in the series of four major workshops will be held in Washington, DC in Fall 2001.

For More Information

For more information about the national assessment process, plans for future stakeholder meetings, and how to become involved in the various workgroups being formed, interested

parties are encouraged to visit the Certification and Worker Protection Branch's web page at www.epa.gov/pesticides/safety or call the Branch office directly at 703-305-7666.